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James S. Parker, Patent Attorney

DECLARATION UNDER 37 CFR §1.132

Examining Group 3723

Patent Application

Docket No. PGR-100

Serial No. 09/759,423

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Examiner : Robert C. Watson
Art Unit : 3723
Applicant : E. Paul Green
Serial No. : 09/759,423
Filed : January 12, 2001
Conf. No. : 2318
For : Method and Apparatus for Trailer Jack Mount

Commissioner for Patents
P.O. Box 1450
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DECLARATION OF E. PAUL GREEN UNDER 37 CFR §1.132

Sir:

I, E. Paul Green, hereby declare:

THAT, I am the inventor of the subject matter claimed in U.S. patent application 09/759,423 (hereinafter the '423 application);

THAT, I have read and understood the '423 application;

THAT, I have read and understood the rejection of claims in the Office Actions mailed June 28, 2002, January 9, 2003, May 21, 2003, and October 22, 2003, and the Advisory Action mailed February 4, 2004, in the '423 application;

THAT, I have been in the welding field for 25 years; I have provided equipment and supplies to customers in the trailer manufacturing industry for many years; I have used trailers for 30 years and, in particular, have used trailers having jacks mounted to A-frame couplers; and

I have built and modified trailers for personal use, including a trailer incorporating the subject invention.

AND, being thus duly qualified, do further declare:

Claims 1-2 and 21-22 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Sweetland (U.S. Patent No. 3,345,037) in view of Linton *et al.* (U.S. Patent No. 4,176,824). The Office Action states "[t]o employ in Sweetland a first piece mounted to the vehicle and a second piece mounted to the vehicle jack would have been obvious for one skilled in the art at the time the invention was made in view of the disclosure of Linton" (underline added for emphasis). However, claim 1 incorporates the limitation "a first piece mountable to an A-frame coupler of a trailer" (underline added for emphasis). The Linton *et al.* reference does not teach a first piece mounted to an A-frame coupler of a trailer. Furthermore, the Office Action does not provide any indication where or how to employ in Sweetland a first piece mounted to an A-frame coupler of a trailer and a second piece mounted to a trailer jack, or how to movably connect the first piece to the second piece such that the second piece can transition between a plurality of positions relative to the first piece. There is simply no motivation for me to modify Sweetland in the manner suggested in the Office Action.

The Office Action states that "one of ordinary skill in the art would have been motivated to do this in order to enable the A-frame mounted jack of Sweetland to be able to transition between a plurality of vehicle positions such that the jack will be initially positioned at a correct vertical position relative to the ground before jacking is begun". However, the supporting device B taught in the Sweetland reference incorporates a "supporting flange 38 rigidly mounted to the shaft ... [i]mmmediately above flange 38 is a cylindrical bushing 39, also rigidly attached to the shaft ... [b]elow flange 38 is another bushing 40 spaced from the flange and also rigidly attached to shaft 30" (see column 2, lines 54-58). The Sweetland reference teaches "[i]n operation, yoke A is held at an elevation wherein the shaft 30, in the areas above bushing 39 and 40, can fit through mouths 43 and 44 into keyways 25 and 26; in the aforesaid position, shaft 30 is maintained in vertical alignment ... [y]oke A is then lowered wherein plate 13 at the area adjacent keyway 25 rests upon flange 38 to support the yoke" (see column 2, lines 66-72).

Accordingly, the Sweetland reference relies on keyway 25 resting upon flange 38 to support the yoke, such that the mounting of the second piece 32 taught by Linton to the trailer jack (supporting device B) taught by Sweetland and the mounting of the first piece 38 taught by Linton to the A-frame coupler of the trailer taught by Sweetland would not function to allow the trailer jack (supporting device B) mounted to the second piece to transition between a plurality of positions relative to the trailer mounted to the first piece without defeating the mechanism the Sweetland reference relies on to support the yoke, namely keyway 25 resting upon flange 38. In fact, the Sweetland reference teaches, as column 1, lines 35-36, "it is obvious that the yoke support must be removed when the trailer is again connected to a pulling vehicle" and, at column 1, lines 36-44, "[i]t is a principal object of the invention to provide a support removeably engageable with the yoke ..." (underline added for emphasis). Therefore, the Sweetland reference teaches removing the supporting device B when the trailer is connected to a pulling vehicle. Thus, one of ordinary skill in the art, at the time of my invention, would not have been motivated to employ in Sweetland a first piece mounted to an A-frame and a second piece mounted to the trailer jack.

The Office Action continues onto page 4 to state "Applicant presents a long discussion about the Sweetland 'keyway' and 'flange'. ... (t)his entire discussion is found to be irrelevant because the Sweetland structure has been substituted by the Linton *et al.* structure". The reason the applicant's prior remarks discuss the Sweetland "keyway" and "flange" is because that is the mechanism which enables the Sweetland jack to be removably engageable with the yoke, which is the principle object of the Sweetland invention (see column 1, lines 36-44). On page six, the Office Action states that "applicant further argues that purpose of the Sweetland reference is defeated by modifying the jack mounting arrangement in the manner taught by Linton *et al.* ... [t]he primary purpose of the jack in Sweetland is for raising the vehicle so the purpose of the jack in Sweetland indeed has not been defeated by the Linton *et al.* modification". The invention taught in the Sweetland reference is a removable trailer support (see title, column 1, lines 11-13, 21-23, 34-36, 41-42, 48-50, and 58-61), rather than a jack. Sweetland teaches at column 2, lines 5-7, "the device to be easily installed and removed without the necessity for tools and special equipment". With regard to a jack, Sweetland teaches "a jack assembly in combination with the

trailer support" such that the jack is an accessory to be used in combination with the removable trailer support, rather than the jack being the invention. Accordingly, I assert the intended purpose of the Sweetland device would be defeated by modifying the Sweetland device in the manner suggested by the Office Action by incorporating a first piece and second piece from Linton *et al.*, if such a modification could even function. The modification proposed by the Office Action would render the Sweetland device unsatisfactory for its intended purpose, namely to be a support removeably engageable with the yoke of a trailer (column 1, line 37-39).

The modification proposed in the Office Action would change the principle of operation of the Sweetland device, namely to be a support removably engageable with the yoke of a trailer (column 1, line 37-39) with respect to which the Sweetland reference teaches "[i]n operation, yoke A is held at an elevation wherein the shaft 30, in the areas above bushing 39 and 40, can fit through mouths 43 and 44 into keyways 25 and 26; in the aforesaid position, shaft 30 is maintained in vertical alignment ... [y]oke A is then lowered wherein plate 13 at the area adjacent keyway 25 rests upon flange 38 to support the yoke" (see column 2, lines 66-72).

The Office Action then states "applicant is merely claiming a first piece and a second piece, whereby the first and second pieces can transition between a plurality of positions." This is not true. Claim 1 is directed to a trailer jack mounting apparatus comprising: a first piece mountable to an A-frame coupler of a trailer; and a second piece mountable to a trailer jack, There is no suggestion in the Office Action of how the Linton *et al.* apparatus could be mounted to an A-frame coupler. Claim 21 provides a further limitation "wherein the A-frame coupler is designed to have the trailer jack mounted to the A-frame coupler". There is no suggestion in the Office Action of how the Linton *et al.* apparatus could be mounted to an A-frame coupler designed to have the trailer jack mounted to the A-frame coupler. Claim 22 provides a further limitation "wherein the trailer jack is designed to mount to the A-frame coupler of the trailer". There is no showing in Linton *et al.* of a second piece mountable to a trailer jack, wherein the trailer jack is designed to mount to the A-frame coupler of the trailer.

Claims 3-12 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Sweetland in view of Linton *et al.* taken with Ebey (U.S. Patent No. 4,623,125). The deficiencies with respect to the rejection of claims 1-2 and 21-22 over Sweetland *et al.* in view of

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Linton *et al.* have been discussed above. The Ebey reference does not cure such defects. Furthermore, claim 4 includes the limitation "wherein said first piece comprises a trailer mounting structure for mounting to the A-frame coupler of the trailer and at least one extending structure for pivotally connecting to said second piece, wherein said second piece comprises a trailer jack mounting structure for mounting to the trailer jack and at least one pivoting arm for pivotally connecting to said first piece.... Claim 9 includes the limitation "wherein said first piece is removably mounted to the A-frame coupler of the trailer. The Sweetland, Linton *et al.*, and Ebey references, alone or in combination, do not teach or suggest the subject invention as claimed in claims 4 and 9 and, in particular, the underlined limitations.

The undersigned declares further that all statements made herein of her own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or of any patent issuing thereon.

Further declarant sayeth naught.

Signed:


E. Paul Green

Date:

3-22-04